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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,960	02/20/2001	Michael L. Schweiss	S339.12.2	2940

7590 07/23/2003

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EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/783,960

Applicant(s)

SCHWEISS, MICHAEL L.

Examiner

Blair M. Johnson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 13-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 13-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

Claims 1-5 and ~~18-20~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller '914 in view of either Ballyns et al or Horn.

Keller discloses the panels, an operating cord being anchored to the top panel and wound about a shaft 42 and sleeve 46 which are driven by a motor 40. What Keller does not show is a web. However, while a web is considered to be the full mechanical equivalent of the cable 48 in Keller, Ballyns et al (at 70) and Horn (in column 4, lines 46-50) are further cited to teach such as being old. The webs permit a more controlled wind up than a cable since the web does not move laterally on the spool as does a cable as it winds thereon. In view of this teaching, it would have been obvious to modify Keller whereby he ~~uses~~<sup>s</sup> a web instead of a cable. It is inherent that the speed at which the door opens and closes will be affected, i.e. accelerated and decelerated, respectively, by the winding of the web on the spool. The particular kind of web is considered to be an obvious matter of choice of design as each of the material recited are well known and have particular features which render them useful.

<sup>18-20</sup>  
Claims 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller '914 in view of either Ballyns et al or Horn as applied above, and further in view of Bonacina.

Providing a shield for any cable, web, etc., collected on a winch is well known as illustrated by Bonacina at 4, such a shield preventing the cable, web, etc., from coming off of the winch, preventing detritus from foiling the winch, etc. Based on these teaching, it would have been obvious to modify Keller to have such a shield.

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Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller '914 in view of either Ballyns et al or Horn and Bonacina as applied above, and further in view of Spangle.

Spangle discloses a rigid rod E to attach a web to a winch, such providing a structurally sound method for such an attachment which balances the load on the winch. In view of this teaching, it would have been obvious to modify Keller whereby his web, as applied by Ballyns et al or Horn, is so mounted to sleeve 46.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keller '914 in view of either Ballyns et al or Horn and Bonacina as applied above, and further in view of Sanders.

Sanders discloses a means 24,25, for adjusting the end of an anchored portion of a door operating cable. In view of this teaching, it would have been obvious to modify Keller whereby his anchored end 50 has such an adjustment feature to permit adjusting the cable/web.

### ***Response to Arguments***

The limitations regarding the increasing and decreasing rate of opening and closing of the door is merely an inherent function of the use of the web which overlaps as it is wound onto a winch spool. There are several reasons why one would choose to use a web. While some reasons are incidental to the "increase/decrease speed" phenomenon, another reason apparent to one of ordinary skill in the art is precisely to take advantage of this known event. Webs have other advantages alluded to above, including a more controlled winding over a cable which must be permitted to shift

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laterally on the spool and which also is susceptible to "pinching" or "binding", i.e. one layer of cable interfering with another layer of cable and preventing it from smoothly coming off of the spool. Ballyns et al and Horn are merely cited to show the established use of webs in opening and closing door.

What is gleaned from Spangle, as presented above, is the mere attachment of the web to the rotatable spool or drum I,D, with I being the "cylindrical member" of claim 13.

The second declaration by the Inventor is again appreciated. However, while the sales figures are significant, there is no nexus between increased sales and the point of novelty of the present invention. For such a statement to be persuasive, it must be clear from the facts that the alleged invention is solely responsible for the increase in sales. This has not been established. See MPEP 7.16.03 which clearly specifies what is needed to overcome a prior art rejection by way of showing of commercial success. The requirements given therein have not been met by the two declarations submitted thus far. Regarding long-felt need, Applicant has not provided any evidence that the problem he has solved has been recognized and attempts by others have been made yet unsuccessful. See MPEP 716.04.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



Blair M. Johnson

Primary Examiner  
Art Unit 3634

BMJ  
July 21, 2003